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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/654,977	09/05/2003	Charles W. Boettcher	29250-001054/US	5646

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CAPITOL PATENT & TRADEMARK LAW FIRM, PLLC  
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VIENNA, VA 22183

EXAMINER
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VO, DON NGUYEN

ART UNIT	PAPER NUMBER
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2611

MAIL DATE	DELIVERY MODE
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04/01/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/654,977	<b>Applicant(s)</b> BOETTCHER ET AL.	
	<b>Examiner</b> Don N. Vo	<b>Art Unit</b> 2611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 31 December 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-4, 6-15 and 17-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 3, 4, 6, 7, 10, 12, 14, 15, 17, 18 and 21 is/are rejected.
- 7) ☒ Claim(s) 2, 8, 9, 11, 13, 19, 20 and 22 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Acknowledgment***

1. This Office Action is responsive to the Amendment filed on 12/31/2007.

### ***Claim Objections***

2. Claim 18 is objected to because of the following informalities:

In claim 18, line 3, after "UMTS" a comma is needed.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 10 and 21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 10, lines 1-2, the recitation of "the averaging times" lacks antecedent basis. Moreover, the recitation of the claim is vague and indefinite because it is unclear of how the "averaging times" are related to other limitations recited in claim 1.

Similar problems exist for the same limitations recited in claim 21.

### ***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1, 3, 4, 6, 7, 12, 14, 15, 17 and 18 are rejected under 35 U.S.C. 102(e) as being anticipated by Piirainen (US 6,526,102; newly cited art).

Regarding claims 1, 3, 4, 6, 7, 12, 14, 15, 17 and 18, Piirainen, as shown in figure 2, teaches a method and apparatus for controlling multi-carrier amplifier comprises generating a plurality of amplifier scaling factors (inputs to 130), generating aggregate scaling factor (130) and using the aggregate scaling factor to control a multi-carrier, amplifier power level (180). See also column 3, line 40 to column 6, line 44.

### ***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of

the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

9. Claims 10 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Piirainen (US 6,526,102) in view of Nomura (US 7,027,482; art of record).

Piirainen teaches all subject matter claimed except for the specific averaging times as specified. However, Nomura, from the same field of endeavor teaches using the averaging times to control the amplifier and using the averaging times as specified is just a matter of selecting the different times (see fig. 2 of Nomura). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Piirainen by using the averaging times to control the amplifier as taught by Nomura and selecting different averaging times as claimed since such selection of times would not involve any inventive feature from the invention of Nomura.

#### ***Allowable Subject Matter***

10. Claims 2, 8, 9, 11, 13, 19, 20 and 22 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Response to Arguments***

11. Applicant's arguments with respect to claims 1, 3, 4, 6, 7, 10, 12, 14, 15, 17, 18 and 21 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Reference Veldhuis et al (US 5,621,855) is cited because it is pertinent to the method and apparatus for controlling the amplifier by using the scaling factor.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Don N. Vo whose telephone number is (571) 272-3018. The examiner can normally be reached on Mon-Fri (9:00AM - 6:00PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, MOHAMMAD GHAYOUR can be reached on (571) 272-3021. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Don N. Vo/  
Primary Examiner, Art Unit 2611